

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the matter of:

FCC Docket Nos.
00-2 and 03-260

Request for Review and/or Reargument and/or Waiver
by
the United Talmudical Academy
of the Order of the Federal Communications Commission

CC Docket Nos.
97-21 and 96-45

Review of Form 471
Application No. 105791
(1998 Funding Year)
Billed Entity No. 155580

PRELIMINARY STATEMENT

The United Talmudical Academy, of Brooklyn, New York (hereinafter “UTA”), hereby appeals to the Federal Communications Commission and seeks review and/or reargument and/or waiver of the Orders by the Federal Communications Commission (“FCC”) on Review of the Decision of the Universal Service Administrator, specifically the Order under Docket No. FCC 00-2, Adopted January 4, 2000, Released January 7, 2000, and under Docket No. FCC 03-260, Adopted October 21, 2003, Released October 24, 2003, *insofar* as the 00-2 Order denied (at paragraph 21 thereof) UTA’s request to review the SLDs records as “moot” pursuant to the remand determination, and the 03-260 Order denied UTA’s underlying Centrex service application as failing the necessary resources showing, thus establishing that the original request for review of the SLD’s records is, in fact, no longer moot.

ARGUMENT

By Order under Docket No. FCC 00-2, Adopted January 4, 2000, Released January 7, 2000, the FCC granted UTA's Letter of Appeal and remanded the matter to the SLD for redetermination of the basic services application - which included UTA's application for discounts relating to its Centrex service already in place. In so doing, the FCC found that UTA's request to review SLD's records supporting its determinations was moot. UTA, after all, had received the remand Order, and thus SLD's original determination was no longer an issue.

On remand, the SLD again denied part of the application, that part seeking cellular phone service and Centrex service discounts, based upon the reasoning of the original determination - the one that had been deemed "moot" by the FCC 00-2 Order. The Common Carrier Bureau reversed the SLD on the cellular phone service issue, but affirmed the SLD on its denial of Centrex service discounts. The FCC in its 03-260 Order affirmed.

It is respectfully averred that the original request for review of the SLD's records is no longer moot, in that they now serve, again, as the basis for the denial of Centrex service discounts - a basis that was challenged in UTA's first appeal but never reviewed. It was, and is now again, UTA's contention that the original denial by SLD of Centrex service discounts, on its own merit, was improper. Upon a review of SLD's records, UTA would have been able to properly

prepare and submit its appeal of SLD's original decision.

With all due respect, the FCC first mooted the disclosure request, thus cutting off that avenue of appeal, then re-instated the original decision, cementing the closure of the UTA's right to appeal in the first instance. As such, UTA should now be permitted to review SLD's records of its original determination, and then appeal *De novo*. Anything less would be a clear and unequivocal denial of UTA's fundamental right to due process.

Alternatively, under the precedential determination in the recent Matter of International Business Machines, Inc., et al., under FCC Docket No. **FCC 03-313**, at paragraphs 66-68 thereof, the FCC allowed the waiver and re-opening of the filing windows for re-submission of applications - dependent on a review of the specific circumstances of each case. In this case, the FCC has already found, at paragraph 15 of the FCC 03-260 Order, that there may be a reasonable argument for a change in policy regarding Centrex service applications.

Certainly, in light of all that has occurred, it would not be unreasonable to permit the re-filing of the original Centrex application so as to allow UTA to complete the application with the proper necessary resource showings. Such relief would relieve the UTA of the procedural quagmire it now finds itself in, having been directed to abandon its original appeal as "moot", and, then, at a later date, having the SLD re-instate the original cause for appeal, without avenue for review.

CONCLUSION

Based upon all the foregoing, it is respectfully requested that prior to the making of a final determination by the FCC the UTA be given an opportunity to review all the records of the SLD and CCB as they specifically pertain to the UTA's original application so as to allow the UTA to submit a more informed and properly prepared memorandum on appeal to the FCC.

In the alternative, it is requested that UTA be permitted to re-file its original application so as to allow UTA an opportunity to submit the necessary resource showing that was allegedly deficient in the first application but cut off on appeal as "moot."

The undersigned hereby verifies that I have read the foregoing, and that to the best of my knowledge, information and belief there is good ground to support it, and it is not interposed for delay.

Dated: December 22, 2003
Brooklyn, New York

Respectfully submitted,

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